

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

-----X
In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO
et al.,

Debtors.¹
-----X

PROMESA
Title III

No. 17 BK 3283-LTS

(Jointly Administered)

ORDER DENYING THE MOTION OF THE LAWFUL CONSTITUTIONAL
DEBT COALITION TO FILE UNDER SEAL CERTAIN PORTIONS
OF ITS OBJECTION TO THE MOTION OF NATIONAL PUBLIC FINANCE GUARANTEE
CORPORATION FOR ENTRY OF AN ORDER DIRECTING AN INDEPENDENT INVESTIGATION

Before the Court is the *Urgent Motion of the Lawful Constitutional Debt Coalition to File Under Seal Certain Portions of Its Objection to the Motion of National Public Finance Guarantee Corporation for Entry of an Order Directing an Independent Investigation* (Docket Entry No. 14567 in Case No. 17-3283,² the “Urgent Motion”), filed by the Lawful Constitutional Debt Coalition (the “LCDC”). Through the Urgent Motion, the LCDC seeks leave of Court to file under seal certain portions of its objection (the “Objection”) to the *Motion of National Public Finance Guarantee Corporation for Entry of an Order Directing an*

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17-BK-3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17-BK-3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17-BK-3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17-BK-3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17-BK-4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority (“PBA”) (Bankruptcy Case No. 19-BK-5523-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

² All docket entry references herein are to entries in Case No. 17-3283 unless otherwise specified.

Independent Investigation (Docket Entry No. 14450, the “National Motion”) on the basis that the Objection contains material (the “Confidential Material”) that may be considered confidential pursuant to this Court’s *Order Appointing Mediation Team* (Docket Entry No. 430) and *Order Regarding Mediation Confidentiality Restrictions* (Docket Entry No. 8686).

On October 14, 2020, the Court granted the Urgent Motion on a temporary basis and ordered briefing with respect to

(i) whether the Court may review and/or consider the Confidential Material, including the Confidential Exhibit, in connection with its determination of the National Motion and, if so, whether any current restrictions on the Court’s ability to review the Confidential Material are waivable or may otherwise be overridden; and (ii) whether, and, if so, to what extent, the Confidential Material satisfies the requirements of Rule 9018 of the Federal Rules of Bankruptcy Procedure and the orders of this Court governing sealed filings such that it should remain under seal for an unlimited duration or, alternatively, whether the Confidential Material, or any component thereof, must be filed on the public docket.

(*Order Regarding Motion of the Lawful Constitutional Debt Coalition to File Under Seal Certain Portions of Its Objection to the Motion of National Public Finance Guarantee Corporation for Entry of an Order Directing an Independent Investigation*, Docket Entry No. 14584, the “Temporary Sealing Order.”)³ On October 24, 2020, the Court denied the Urgent Motion in part pending completion of briefing on the Urgent Motion. (*See Order Denying in Part the Motion of the Lawful Constitutional Debt Coalition to File Under Seal Certain Portions of Its Objection to the Motion of National Public Finance Guarantee Corporation for Entry of an Order Directing an Independent Investigation*, Docket Entry No. 14918.) Specifically, the Court denied the Urgent Motion except insofar as it requested that the references to Confidential Material in paragraphs 37 and 43 of the Objection (the “Confidential Communication”) be maintained under seal. (*Id.*) On October 26, 2020, the LCDC filed the *Reply Regarding Urgent Motion of the Lawful Constitutional Debt Coalition to File Under Seal Certain Portions of Its Objection to the Motion of National Public Finance Guarantee Corporation for Entry of an Order Directing an Independent Investigation* (Docket Entry No. 14932, the “Reply”).

The Court has considered carefully the Urgent Motion; the responses thereto filed by the Mediation Team, the Official Committee of Unsecured Creditors, and National Public Finance Guarantee Corporation (“National”) (collectively, the “Respondents”); and the Reply. In light of the LCDC’s representations in the Reply that it has “obtained the consent of the other mediation participant to the communication to unseal the Confidential Communication” and that it “supports unsealing the Confidential Communication,” as well as the lack of objection by the Respondents or any other party in interest to the Confidential Communication being made publicly available, the Urgent Motion is denied in its entirety. The Clerk of Court is directed to unseal Docket Entry No. 14587. National is directed to file, by **October 27, 2020, at 3:00 p.m.**

³ Capitalized terms not defined herein shall have the meanings given to them in the Temporary Sealing Order.

(Atlantic Standard Time), fully unredacted versions of the *Reply Memorandum in Further Support of Motion of National Public Finance Guarantee Corporation for Entry of an Order Directing an Independent Investigation* (Docket Entry Nos. 14672 and 14921) and the *Supplemental Reply Memorandum in Further Support of Motion of National Public Finance Guarantee Corporation for Entry of an Order Directing an Independent Investigation* (Docket Entry Nos. 14819 and 14922).

This Order resolves Docket Entry No. 14567.

SO ORDERED.

Dated: October 27, 2020

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
United States District Judge